

Dear Senate Finance Committee,

Thank you for having Gregg Faber come in to respond to prior testimony.

His description of the process is accurate in the details, which as Sen. Cummings noted is accessible primarily to lawyers.

I have assisted many Vermonters in participation in PUC cases, including solar and wind siting, telecom towers, the recent VGS/RNG case. Nobody else is doing this work. Over the years, I have solicited input from citizens about the process. The most common comment is “they speak a different language.” “What is Discovery?” “What is a Brief?”

My role involves hosting webinars where I take people through the statute, I offer them the PUC’s glossary and process flow charts, and translate the PUC’s language into terms that citizens can understand. At this point I feel like I am in the role of a public or consumer advocate, doing a service to the state, for the annual salary of \$50,000 that also involves other work, not just PUC.

I then hold people’s hands as they go through the process. I have determined it is impossible to teach people how to write a Brief. I’ve tried with highly intelligent people and been amazed by how hard it is for people to understand what a Brief is. Discovery is also mysterious, as citizens will write questions of the sort one would like to ask directly of the applicant at a hearing, except they aren’t appropriate discovery questions. And in many instances, the developer objects and doesn’t answer discovery questions anyway, while using discovery as a cudgel to intimidate citizens who do participate. (Note that the Act 250 District Commission process enables the public to attend, get party status, ask questions at a hearing, and there is no discovery).

The whole PUC process is simply not accessible to the average Vermonter. This is true for Section 248, not just Section 248a.

After listening to the testimony you have heard, I agree with Karen Horn that the PUC’s workshop process is not that easy, either. I have quite a bit of experience participating in PUC workshops. My initial idea stands, that a few of us work outside of the PUC arena to come to something we can all agree on, and then bring that back to you and the PUC. Will Dodge, Brooke Dingleline, Karen Horn and I have the ability to move this forward and invite other relevant parties, which needs to include a couple Vermont citizens who have been through the process. I’ve done stakeholder processes with Omya, Agrimark/Cabot, the Champlain Water District and JP Carrara and Sons and have had very good outcomes in most cases.

It is evident that Gregg Faber is resistant to changing the process. I will say directly that if the PUC sets up a workshop and puts Gregg Faber in charge, I will not want to participate. He is in the role of the Judge in hearing telecom cases, and should not be the person responsible for convening a workshop that proposes to change the process. In the recent contested cases, my observation is that his work is sloppy and he doesn’t seem to be paying attention. This may be because so few cases are contested and it is as new to him as it is to the lawyers who represent the companies.

The PUC has created plenty of papers for the public to read. Unlike Act 250, there is no district coordinator to assist all parties. There is literally nobody to talk to. The PUC will direct people to get help from the Public Service Department attorneys, but it is not uncommon for citizens to report to me they never got a response, or the response wasn't useful. Sometimes I hear from people who say they called 20 attorneys to find someone to represent them at the PUC, and nobody will take their case.

This committee may remember the efforts of AARP a few years ago to create a separate Office of Public Advocate, or create what exists in Maine, NH, CT and other states, a Consumer Advocate. Several people have told me how much time they spent trying to figure out what to do, and then they find me and learn in one hour what they need to know. Some have said they cried after talking to me, knowing there was someone to help.

I witness tremendous pain and anxiety and stress among Vermont citizens who have to engage in the PUC's processes. After the fact, when I (and the PUC) have asked citizens to describe their experience, the most common word used is "brutal". Think about how you would react if a company that has the force of federal preemption and a compliant PUC propose a 190 foot cell tower within 500 feet of your house or within a scenic view shed. The threat is very real, especially with the known health issues that will, in my opinion, be coming to a head soon with all the litigation taking place and uproar all over the world about the harm being done to people, bees and birds as a result of the huge increase of exposure to radio frequency radiation emissions.

Fyi, there are four contested cases in 10 years, not 3. The Stowe/Waterbury case, Enosburgh, Ira, and there is an ongoing case in Granville. The Granville tower is contested by a neighbor and ANR, and AT&T keeps seeking extensions but it is a contested case that is ongoing.

Please keep in mind that the FCC has given towns and states the ability to regulate siting of cell towers. That issue is not preempted. The statute could include setbacks, for instance, as many telecom by-laws and ordinances already do. I disagree with Gregg Faber's description of what is possible. But he is correct, because the statute is so prescriptive, you can play an important role in updating the statute to provide more protection to Vermonters via siting standards (just like we have state statute for solar setbacks). Vermont is not preempted by the FCC on siting issues.

I really appreciate you are taking the time to hear the testimony. I am available to answer questions based on my experience if you need more information from the citizens' perspective. Also I have worked with towns, and have some understanding of what their challenges are. In both Enosburgh and Ira, the towns stayed out of it due to issues with the landowner. No, they didn't all think it was fine. In both cases the relationships between town board members and the landowner resulted in the town boards deciding not to get involved. As for the PSD aesthetics expert, PSD is hiring a New York firm that has never found an undue adverse aesthetic effect for any cell tower anywhere, and that same firm determined that there wasn't even an adverse aesthetic effect for the Manchester solar case that the PUC denied on aesthetics. That's part of the problem, and if you care about Vermont's aesthetics, don't expect the PSD to advocate to protect the state's beauty.

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